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C O N F I D E N T I A L SECTION 01 OF 02 TBILISI 002139

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DEPT FOR EUR/CARC AND DRL

E.O. 12958: DECL: 08/27/2017
TAGS: [PGOV](#) [PREL](#) [GG](#)
SUBJECT: MAIA TOPURIA CASE

REF: 2006 TBILISI 1630

Classified By: Ambassador John F. Tefft, for reasons 1.4 (b) and (d).

¶1. (C). Summary: On August 24, the Tbilisi City Court found all 13 defendants accused of plotting to overthrow the country's leadership in September 2006 guilty. Most of the 13 are linked with Igor Giorgadze's Justice Party. Igor Giorgadze is a Georgian fugitive wanted for attempted murder of President Eduard Shevardnadze in 1995. Georgian officials say Russia finances the Justice Party. Giorgadze's niece, Maia Topuria, was one of the 13 sentenced to eight and half years imprisonment. Her U.S. counsel questioned the legality of closing the case to the public and of witness statements, which they claimed were remarkably similar. American Bar Association (ABA) Central Eastern European Law Initiative (CEELI) analysis of the case concludes that closing the courtroom is allowed under Georgian Law and is also consistent with international law. Prosecutor General Adeishvili was adamant that irrefutable evidence tied the 13 defendants to the necessary criminal elements and that closing the court was a measured and justified response. Public response to the verdict is muted: aside from a brief mention during an Imedi television broadcast on Friday evening, and a small article buried deep within one local newspaper today, lack of public outcry is surprising, given the very strong advocacy of her legal defense to raise the profile of the case in Washington and European capitals. End Summary.

The Verdict...Guilty

¶2. (C) On August 24, the Tbilisi City Court found 13 defendants guilty of plotting to overthrow the Georgian government in September 2006. Most of the 13 are linked with Igor Giorgadze's Justice Party. Igor Giorgadze is a Georgian fugitive wanted for the attempted assassination of President Eduard Shevardnadze in 1995. Georgian officials say Russia finances the Justice Party. Giorgadze's niece, Maia Topuria, was one of the 13 sentenced to eight and a half years imprisonment. Those sentenced have the right to appeal the judgment to the Court of Appeals one month after sentencing. The court's legal reasoning for finding the defendants guilty will be published in two weeks as required by Georgian law.

Drilling Down to the Crux

¶3. (C) Post met with Topuria's counsel, Mr. Larry Barbella and Ms. Melinda Serafa on at least three occasions. Both lawyers claimed there were serious procedural irregularities with the case which would result in an unfair trial. First, they objected to closing the courtroom to the public. They stated that the judge could close the courtroom to protect

the identity the of witness or national security. However, they negated the validity of this reasoning stating that the witnesses' names appeared in open media almost daily. They also claimed that no state secrets were revealed during the case. (Interestingly, ABA/CEELI concluded that the GoG was well within its domestic and international rights to close the case.) Secondly, counsel claimed that witness statements appeared to them to be blatantly coached, as the testimony, regardless of witness, they claimed, was virtually the same, word for word. Thirdly, counsel argued that the trial judge violated the nine month rule. The nine month rule requires a detainee to be released if he/she is not sentenced within the nine month timeframe they believe applicable. Barbella and Serafa both said that the judge arbitrarily chose the detention start date as other than was proscribed by the Constitution and the Criminal Procedure Code. The result was that the court illegally detained their client. As instructed by Washington, we told Topuria's counsel that post is not in a position to comment on the merits of the decision to close the trial, and that the Department's policy is not to interfere or comment on ongoing cases. We noted that the information could be used in our annual Human Rights Report, if a clear violation of human rights occurred. We encouraged Topuria's counsel to seek redress of procedural irregularities with the Prosecutor General and the Public Defender offices.

The Georgian Perspective

¶4. (C) Ambassador and DAS Bryza both raised concerns with Prosecutor General Adeishvili about the international community's perceptions of procedural improprieties in the Topuria case and advocated for increased transparency. He

TBILISI 00002139 002 OF 002

was adamant that irrefutable evidence proved the 13 guilty of the charged crimes and closing the court was a measured and justified response. Adeishvili's office rejects the argument that closing the proceedings denied the defendants' rights under Georgian law. Defense lawyers have had full access to their clients, full access to the evidence, and full access to court proceedings. Both Post and DAS reminded Adeishvili that he may well be within the legal boundaries to close the trial, but international misperceptions could have an influence on their strategic goals, such as confidence in the rule NATO membership. Both stressed that any decisions need to be procedurally perfect to withstand scrutiny.

No ROL backsliding Here

¶5. (C) ABA/CEELI analysis of the case is that closure of the courtroom is clearly allowed under Georgian Law, which is consistent with international law. Observers on the ground believe that the rule of law is moving forward in Georgia and do not believe the case is not indicative of widespread backsliding.

The Mouse that Roared

¶6. (C) Public response to the verdict is muted: aside from a brief mention during an Imedi television broadcast on Friday evening, and a small article buried deep within one local newspaper today, lack of public outcry is surprising, given Topuria's legal team's very strong efforts to raise the profile of the case. Unlike the Girgvliani case, where there was a large Georgian civil society and press outcry, sentencing in the Topuria cases hasn't raised any discernible public eyebrows (reftel A).

Comment

¶7. (C) The verdict in the Topuria case is not surprising

given the gravity of the case. What is surprising is the lack of public reaction in the form of media coverage. True, Giorgadze's party is neither popular in Georgia nor well supported. Perhaps the lack of strong response is due to the fact that Topuria's counsel dedicated many resources to her defense, but targeted those whom they felt could sway Georgia's decision makers--with influential people in Washington and Europe--rather than on Georgian popular opinion. The question of who is funding Topuria's defense, which includes two Washington lawyers traveling back and forth to Tbilisi and Europe and a lobbyist remains a question, although there is considerable speculation that the Russian government is paying.

18. (C) ABA/CEELI's analysis reflects that of post in that Georgia is not where it needs to be on judicial reform, but is well on the way. While we strongly believe that Georgia should be mindful of international opinion as this ultimately will support or complicate her entry into NATO, we support a judicial system that is free from executive or third party interference. All our training in the judicial realm here fully supports this independence and any other approach would countermand the accountability to which we urge the Georgians to aspire.

19. (C) Although Topuria's counsel has arguably demonstrated a strong advocacy for their client, no other nongovernmental organization or disinterested party has come forth to voice the same concerns. In fact, ABA/CEELI specifically recognizes that the GoG acted within its right to close the trial.
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